

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

THE ESTATE OF GENE B. LOKKEN,
GLENNETTE KELL, DARLENE
BUCKNER, CAROL CLEMENS, FRANK
CHESTER PERRY, THE ESTATE OF
JACKIE MARTIN, JOHN J. WILLIAMS,
AS TRUSTEE OF THE MILES AND
CAROLYN WILLIAMS 1993 FAMILY
TRUST, and WILLIAM HULL,
individually and on behalf of all others
similarly situated,

Plaintiffs,

vs.

UNITEDHEALTH GROUP, INC.,
UNITED HEALTHCARE, INC.,
NAVIHEALTH, INC. and Does 1-50,
inclusive,

Defendants.

Civil File No. 23-CV-03514 (JRT/SGE)

**MEMORANDUM IN SUPPORT OF
UNOPPOSED MOTION FOR SUBSTITUTION OF PARTIES**

Plaintiffs bring this motion, pursuant to Fed. R. Civ. P. 25(a), to substitute Plaintiff Frank Chester Perry.

1. Plaintiff Frank Chester Perry (“Plaintiff”) filed the First Amended Complaint (ECF No. 34) against Defendants on April 5, 2024.
2. Plaintiff’s Counsel subsequently discovered that Plaintiff passed away on September 7, 2024, in Salt Lake City, Utah. *See* Declaration of Mary Marfisee

(“Marfisee Decl.”) ¶ 2.

3. Plaintiff left a duly executed and witnessed Last Will and Testament dated November 3, 2023, naming his wife, Mary Marfisee, as the Personal Representative of his estate. *See* Marfisee Decl. ¶ 5.
4. Mr. Perry was domiciled in California at the time of his death. *Id.* ¶ 3. Under California law, Plaintiff’s filed claims are not extinguished upon his death. California Code of Civil Procedure provides that “a cause of action for or against a person is not lost by reason of the person’s death, but survives subject to the applicable limitations period.” Cal. Code Civ. P. § 377.20(a).
5. California law allows the decedent’s personal representative to continue this action on the decedent’s behalf. Cal. Code Civ. P. § 377.31.
6. Ms. Marfisee has executed and filed a declaration, under penalty of perjury, testifying to these facts, as required by Cal. Code Civ. P. § 377.32(a). *See* Marfisee Decl. ¶¶ 4–7.
7. A certified copy of Mr. Perry’s Certificate of Death is attached to Ms. Marfisee’s declaration, as required by Cal. Code Civ. P. § 377.32(c). *See* Marfisee Decl. Ex. 1.
8. Mary Marfisee, as Personal Representative of the Estate of Frank Chester Perry, respectfully requests that the Court to enter an order permitting her to be substituted as Plaintiff in this matter and continue the pending claims on behalf of the Estate of Frank Chester Perry.

Dated: November 13, 2024

s/ Derek C. Waller

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